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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 20

Application Number: 09/628,233  
Filing Date: July 28, 2000  
Appellant(s): BOIES ET AL.

MAILED

GROUP 3600

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Kurt M. Maschoff  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed January 21, 2004.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences that will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The amendment after final rejection filed on January 21, 2004 has been entered.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

Group I - claims 1-12, 20-31, and 47;

Group II - claims 18-19, 37-38, 46 and 50;

Group III – claim 51

**(8) Claims Appealed**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) Prior Art of Record**

6,449,601	FRIEDLAND ET. AL.	12-1998
6,510,434	ANDERSON ET. AL.	12-1999

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-12, 20-31 are rejected under 35 U.S.C. 103(a). This rejection is set forth in prior Office Action, Paper No. 12 and is presented with additional arguments as a new examiner has replaced the original examiner. Claims 39-45 were cancelled in the entered amendment after final, thereby nullifying the 35 USC 101 rejection as applied to those claims.

**Claim Rejections - 35 USC § 103**

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-31, 37-38, 46-47, 50-51 are rejected under 35 USC 103(a) as unpatentable over Friedland(US Pat. No: 6,449,601) in view of in view of Anderson(US Pat. No: 6,510,434).
6. As per claims 1-31, 37-38, 46-47, 50-51 Friedland teaches a method of decentralized e-commerce(Abstract) comprising conducting auctions over the Internet(Fig 4) for the sale of merchandise(Fig 7/710/716) and offering the user the opportunity to purchase the merchandise(Fig 7/726) for auction(Fig 6/622/606). Friedland also describes the merchandise by price(Fig 8/808) as well as a means offered to the user to purchase the merchandise(Fig 8/818) as well as rejecting the bids that do not meet a minimum bid threshold(Fig 8/806). Anderson teaches(col 2 line 36-co13 line 43) wherein the portal tagging standard requires tags(col 8 line 65-col 9 line 64) for domains and categories(Fig 6A)(Fig 5) which may include name, address, education, experience and job classification(Abstract)(Fig 3A)(Fig 3B)(Fig 4B)( as well as providing a link to the matching content(Fig 5)(Fig 8)(co12 line 36-col 3 line 39). Anderson also relates providers for parts and items associating each provider with an item(Fig 2)(col 8 lines 28-64) as well as conducting search queries using tags(Fig 6C) and sending search requests to servers(Fig 7) and parsing search requests from clients to identify terms(Fig 8) as well as delivering search results to clients. It would have been obvious to one skilled in the art at the time of the invention to combine Friedland in view of Anderson to teach the invention. The motivation to combine is to teach a system for providing improved searching for matching items as applied to e-commerce as enunciated by Anderson(col 2 lines 25-34).

7,8. Claims 43-45 were cancelled in the amendment after final and thus their rejection under 35 USC 101 is rendered moot.

9. Applicant's arguments with respect to claims cited have been considered but are not persuasive. Anderson teaches(col 2 line 36-co13 line 43) wherein the portal tagging standard requires tags for domains and categories(Fig 6A) which may include name,address,education, experience and job classification(Abstract)(Fig 3A)(Fig 3B)(Fig 4B)( as well as providing a link to the matching content(Fig 5)(Fig 8)(col 2 line 36-col 3 line 39).Anderson also relates providers for parts and items associating each provider with an item(Fig 2)(col 8 lines 28-64) as well as conducting search queries using tags(Fig 6C) and creating indexes(Fig 5) and sending search requests to servers(Fig 7) and parsing search requests from clients to identify terms(Fig 8) as well as delivering search results to clients.

### ***(11) Response to Argument***

#### **A. Appellant argues:**

As will be explained, the rejections of each of the claims are improper because: (a) the cited combination fails to teach or suggest embodiments of the claimed invention, and/or (b) because the Examiner has improperly combined references (in particular, there is no adequate reasoning or support for making the proposed combinations).

Therefore, Appellants respectfully request that the Examiner's rejections be reversed.

#### **I. The Claims of Group I are Allowable Over the Cited References**

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Claims 1-12, 20-31 and 43 stand rejected under 35 USC §103(a) as unpatentable over Friedland (U.S. Patent No. 6,449,601) in view of Anderson (U.S. Patent No. 6,510,434). Claim 1 is directed to a method of decentralized e-commerce which includes receiving a search request to search content stored on at least one content server. The content includes provider tags and the search request includes at least one search term associated with at least one portal tag, the portal tag being part of a portal tagging standard. The method includes identifying a provider tag corresponding to the portal tag using a cross-reference of portal tags corresponding to provider tags. The search term is compared to a content field tagged with a provider tag corresponding to the portal tag associated with the search term. That is, the method of claim 1 allows a user to search content that is tagged with a different tagging scheme, thereby allowing content providers to allow their content to be searched without the need to adopt a common or standardized tagging scheme.

As described in his Abstract, Friedland describes a "distributed live auction" and a "method for distributing a live auction over the Internet to remote bidders". Friedland describes "the distribution of real-time, live auctions, conducted by a live auctioneer in the presence of an audience of bidders, to remote bidders via the Internet" (Col. 2, line 66 to Col. 3, line 2). In general, Friedland describes the operation of an auction server to conduct Internet auctions.

B. Examiner's response:

Friedland discloses decentralized ecommerce, as the preamble in claim 1 requires, in the form of an internet auction with remote bidders (abstract) and a decentralized

network system with four modules: a client program, a network of nodes, an auction server process associated with a database and an auction console (col 3, L 2-8). The client program navigates through a hierarchical list of categories for items auctioned (col 11, L 51-57; col 12, L 49-57) and thus categories as well as internet ecommerce are mentioned to link the second reference, Anderson et. al., which also discloses categories (col 2, L 53-55) and ecommerce (col 4, L 13-18).

C. Appellant argues:

Anderson describes a system for retrieving "information from a database using an index of XML (eXtensible Markup Language) tags and metafiles." (See, e.g., the Abstract). In general, Anderson describes a hierarchical tagging structure allowing information stored in a database to be easily searched. The tagging structure includes different types of tags used to identify information in the database (including "domain" or "category" tags). In general, Anderson describes a single tagging structure used to facilitate searching of a database of information.

D. Examiner's response:

Only in one embodiment does Anderson describe an XML tag (col 4, L 34-37). The XML tag is associated with each domain as a domain tag and with each term associated with a category as a category tag (col 4, L 34-39). Thus a dual or multiple, *not single*, tagging structure is used - a domain tag and a category tag. Of critical importance, Examiner, along with Dr. Henry Tsai, assert that the domain tag is functionally *equivalent* to the Appellant's portal tag and the category tag is functionally *equivalent* to the Appellant's provider tag. Many of the tags have a metafile which

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includes a list of related tags, such as related domain tags, category tags and hierarchy tags (col 4, L 39-42; col 7, L18-31: relationship tables 38). The “related” tags and “relationship tables” terminology strongly imply that a relational database structure exists among the tagged data fields such that *horizontal* as well as vertical (hierarchical) access is possible as in a relational database structure. Col 4, L 44-51 states: “Each record of the database includes an index component which lists the domain tags and category tags that are associated with that record. When a search request is received, a set of tags that correspond to the request are identified. The set of tags is compiled as a key and is used to search the database to locate records that include the set of tags in their index component.” Thus a *key*, composed of a set of tags, is used to search the database and match tags contained in the key.

E. Appellant argues:

As will be discussed in more detail below, Appellants respectfully assert that the rejections of claims 1-12, 20-31 and 43 are improper at least because: (a) the cited combination fails to teach or suggest embodiments of the claimed invention, and/or (b) because the Examiner has improperly combined references (in particular, there is no adequate reasoning or support for making the proposed combinations). Therefore, Appellants respectfully request that the Examiner's rejections be reversed and/or that all claims be allowed.

(a) The References Cited by the Examiner Fail (Alone or in any Combination) Fail to Teach or Suggest Embodiments of Group I



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35 U.S.C. § 103 authorizes a rejection where, to meet a claim, it is necessary to modify a single reference or to combine it with one or more other references. (See, e.g., MPEP § 706.020)). All claim limitations must be considered (that is, the invention as a whole must be compared to the references). (See, e.g., MPEP § 2141.02).

Appellants respectfully assert that Friedland and Anderson, alone or in any combination, fail to teach or suggest embodiments of the present invention as recited in claim 1, at least because both Friedland and Anderson, taken as a whole, fail to teach or suggest a method of decentralized e-commerce including either (1) the use of both portal tags and provider tags, (2) identifying a provider tags corresponding to a portal tag using a cross-reference of portal tags

corresponding to provider tags, or (3) comparing a search term with a content field flagged with a provider tag corresponding to the portal tag associated with the item.

F. Examiner's response:

For "decentralized e-commerce", see item B. above; for (1), see item D. above; for (2), see item D. above; and for (3), see D above.

Embodiments of the present invention allow a user to search for information provided by a wide variety of different content providers who each may use different provider tagging schemes. For example, when a user performs a search using a portal, the cross-reference is used to locate content associated with different content providers, even though the different content providers use different tagging standards. The portal is able to perform detailed and specific searches of non-standardized, decentralized content supplied by one or more content providers and stored remotely on one or more

content servers. (See, e.g., page 12, lines 1-4). Further, content providers retain the flexibility to tag content based on their own needs and using their preferred tagging scheme.

The Examiner, apparently, agrees that Friedland lacks these features, and has not alleged that Friedland provides them. The Examiner's reliance on Friedland is remarkable in that the Examiner's rejection does not refer to my feature of claim 1.

Instead, the Examiner cites Friedland for its teaching of auction techniques, stating:

"As per claims 1-51 Friedland teaches a method of decentralized ecommerce (Abstract) comprising conducting auctions over the Internet (Fig 4) for the sale of merchandise (Fig 7/710/716) and offering the user the opportunity to purchase the merchandise (Fig 7/726) for auction (Fig 6/622/606). Friedland also describes the merchandise by price (Fig 8/808) as well as a means offered to the user to purchase the merchandise (Fig 8/818) as well as rejecting the bids that do not meet a minimum bid threshold (Fig 8/806)." (Final Office Action, page 2, paragraph 6).

G. Examiner response:

See item B. above

H. Appellant argues:

The Examiner ignores the language of the claims of the present application. Claim 1 does not recite a method of conducting auctions over the Internet. Instead, as addressed in each of Appellant's prior responses, embodiments relate to a method of decentralized e-commerce that allows a user to search content. Friedland does not

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teach or suggest the use of any "provider tags", any "portal tags", any "cross-reference of

any searching which compares "a search term with a content field tagged with a provider tag

corresponding to the portal tag associated with the search term". As such, Friedland fails to teach or suggest embodiments of the present invention as recited in claim 1.

The Anderson reference fails to make up for these deficiencies of Friedland. In his rejection, the Examiner states that Anderson teaches:

"(co12 lines 36-co13 line 43) wherein the portal tagging standard requires tags (col 8 line 65-co19 line 64) for domains and categories (Fig 6A)(Fig 5) which may include name, address, education, experience and job classification (Abstract)(Fig 3A)(Fig 3B)(Fig 4B) (as well as providing a link to the matching content (Fig 5)(Fig 8)(co12 line 36-col 3 line 39). Anderson also relates providers for parts and items associated each provider with an item (Fig 2)(col 8 lines 28-64) as well as conducting search queries using tags (Fig 6C) and sending search requests to servers (Fig 7) and parsing search requests from clients to identify terms (Fig 8) as well as delivering search requests to clients." (Final Office Action, pages 2-3, paragraph 6).

The Examiner again ignores the language of the claims. In particular, the Examiner cites a reference that describes the use of a single tagging standard, and ignores the claim language that recites the use of multiple tagging standards (including portal tags and provider tags) and cross-references between the standards. Appellants are not claiming to have invented the use of a single tagging standard, or the mere ability to

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search a database using tags. Instead, Appellants have developed a new and useful system that cross-references a tagging scheme used by content providers (the "provider tags") with "portal tags" that are "part of a portal tagging standard", thereby allowing content providers to continue using their own tagging schemes while providing users with improved searching capabilities. There is simply no teaching or suggestion in Anderson to provide such a system or method.

More particularly, like Friedman, there is simply no teaching or suggestion in Anderson to provide a system or method including (1) the use of both portal tags and provider tags, (2) identifying a provider to corresponding to a portal tag using a cross-reference of portal tags corresponding to provider tags, or (3) comparing a search term with a content field flagged with a provider tag corresponding to the portal tag associated with the item. It appears that the

Examiner agrees that Anderson lacks these features because the Examiner has not addressed any of these limitations in his rejections.

I. Examiner's response:

See item D. above

J. Appellant argues:

Instead, Anderson describes a system in which a database of information is tagged using a single tagging standard, allowing ready searching of the database. Each record of the database includes an index component which lists the domain tags and category tags that are associated with each record. (Col. 4, lines 44-46). The "domain tags" and "category tags" are tags within the same tagging scheme. This is discussed, for

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example, at col. 7, lines 18- 68, where Anderson describes category tags as "groups of terms" and domain tags as corresponding to a line of business in a classified advertising directory. Further evidence that Anderson's system is adapted for use with a single tagging scheme is provided at Col. 9, lines 14-17 where Anderson discusses an implementation using XML, stating: "XML could be used to create a universal search vocabulary using a common set of XML tags so that an IR system can access information located in any database that uses the common set of XML tags."

That is, all of the information in Anderson's database is tagged using different types of tags in the same tagging standard. A system that uses a single tagging scheme is not the same as the claimed system, which includes both "provider tags" and "portal tags". As an example to illustrate this fundamental distinction: Anderson's system would likely work very well for searching a database in which all the content was tagged using the same tagging scheme (e.g., where all of the data records were tagged using Anderson's domain and category tags). However, unlike embodiments of the present invention, Anderson's system would not work if different content providers (each using their own tagging scheme) tagged the content in the database. Using Anderson's restaurant database example (See, e.g., col. 10, lines 24-51), Anderson's system could not search content if it was not tagged using Anderson's "restaurant domain tag (<Restaurant tag>)". Information from a restaurant that used it's own tagging scheme would simply not be found in a search using the Anderson system.

Further, at least because only a single tagging scheme is used by Anderson, there is simply no teaching or suggestion in Anderson to provide any "cross-reference" between two different tagging schemes (i.e., there is no identifying a provider to corresponding to a portal tag using a cross-reference of portal tags corresponding to provider tags as recited in claim 1).

Finally, at least because Anderson fails to teach or suggest the use of different tagging schemes, there is simply no teaching or suggestion of performing a search by comparing a search term with a content field flagged with a provider tag corresponding to the portal tag associated with the item. Instead, Anderson performs searches by comparing terms of a search request to XML tags that match the search terms.

Matching information is returned as search results. Embodiments of the present invention as recited in claim 1 requires additional processing to identify a provider tag corresponding to the portal tag associated with the item identified in the search request. With this additional processing, embodiments allow the identification of content even if the content was tagged using a different tagging scheme (i.e., using a provider tag).

There is simply no teaching or suggestion in Anderson to provide such a feature.

Accordingly, claim 1 is believed patentable at least because Friedland and Anderson (alone or in combination and taken as a whole) fail to teach or suggest a method of decentralized e-commerce including either (1) the use of both portal tags and provider tags, (2) identifying a provider tag corresponding to a portal to using a cross-reference of portal tags corresponding to provider tags, or (3) comparing a search term with a

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content field flagged with a provider tag corresponding to the portal tag associated with the item. Appellants respectfully request that the Examiner's rejections be overturned.

K. Examiner's response:

See item D above.

L. Appellant argues:

(b) The Examiner's Combination of References is Improper

Even if the references cited by the Examiner did teach or suggest features of the claimed invention (which Appellants respectfully assert they do not), Appellants respectfully assert that the Examiner has not properly established that the claims are obvious over the cited references.

To properly establish a case of obviousness over a combination of references, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify

the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Appellants' disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of

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reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." Ex parte Clapp, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985).

M. Examiner's response:

The aforementioned cases and those cited below are substantially dissimilar in fact and thus their holdings do not apply.

N. Appellant argues:

As will be explained, however, there is absolutely no motivation in the prior art to modify or combine these references as proposed by the Examiner (let alone any indication of a "reasonable expectation of success").

Neither Friedland nor Anderson provides any suggestion whatsoever that these references should be combined. Instead, according to the Examiner, "it would have been obvious to one skilled in the art at the time of the invention to combine Friedland in view of Anderson to teach the invention. The motivation to combine is to teach a system for providing improved searching for matching items as applied to e-commerce as enunciated by Anderson (col 2 lines 25-34)." (See, e.g., Final Office Action at page 3, paragraph 6).

O. Examiner's response:

Examiner maintains the prior position that motivation to combine is present in Anderson (col 2, L 25-34), where essentially the motivation is searching in the most efficient manner and supporting multiple databases.

P. Appellant argues:



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Appellants respectfully do not understand this reasoning. It appears that the Examiner believes that the combination is proper simply because both references are associated with searching. Such general statements about the broad field of the invention (i.e., information searching and retrieval) fall far short of a motivation to combine these particular references in a way that would make the particular invention recited in claim 1 obvious. Similarly, the statement that "functions" can be "modified" is not "a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references" as required for a prima facie case of obviousness. *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1985). Further, even if the two references could potentially be combined, the resulting system would still lack elements of the claimed invention. As discussed above, both Friedland and Anderson fail to teach or suggest several elements of claim 1 (including the use of provider tags and portal tags, cross-referencing the two sets of tags, and searching in a content field tagged with a provider tag corresponding to a portal tag associated with the search term). The asserted combination fails to describe a system having any or all of these features, and the Examiner has not provided any motivation to modify either of the references to provide them.

In view of the above, claim 1 is patentable under 35 USC § 103 over Friedland and Anderson, and Appellants respectfully request that the Examiner's rejection be reversed and/or the claims allowed. The other claims in Group I (i.e., independent claims 20 and 47 and dependent claims 2-12 and 21-31) contain limitations similar to those described above with respect to claim 1 and are patentable for the reasons described above.

II. The Claims of Group II are Allowable Over the Cited References

Claims 18-19, 37-38, 46 and 50 stand rejected under 35 USC §103(a) as unpatentable over Friedland (U.S. Patent No. 6,449,601) in view of Anderson (U.S. Patent No. 6,510,434). As a preliminary matter, the claims of Group II should not stand or fall with the other Groups herein at least because these claims recite one or more elements (i.e., registering the content with a portal server comprising -providing an address for the content and providing key information relating a provider tag to a corresponding portal tag in a portal tagging standard) that are not found in any other Group.

Claim 18 is directed to a "method of decentralized e-commerce" which includes "creating content wherein the content is tagged with at least one provider tag to identify each of at least one content field", "storing the content on a content server", and "registering the content with a portal server". The registering of the content with a portal server is recited to include "providing an address for the content" and "providing key information relating a provider tag to a corresponding portal tag in a portal tagging standard".

It is respectfully noted that the references relied upon by the Examiner, whether taken alone or in combination (and taken as a whole), do not teach or suggest the feature of re 'storing the content with a portal server comprising. providing an address for the content and -providing key information relating a provider tag to a corresponding portal tag in a portal tagging standard. As discussed above in conjunction with the discussion of Group I, there is simply no teaching or suggestion in either reference to provide any information relating a provider tag to a portal tag. As such, there is certainly no teaching

or suggestion to provide an address for the content as well as providing key information relating the provider tag to a corresponding portal tag. Further, the Examiner has not pointed to any alleged teaching in either reference suggesting such a feature, nor has the Examiner provided any alleged motivation to modify the references to provide such a feature.

Q. Examiner's response:

See item D. and O. above

R. Appellant argues:

In view of the above, claim 18 is patentable under 35 USC § 103 over Friedland and Anderson, and Appellants respectfully request that the Examiner's rejection be reversed and/or the claims allowed. The other claims in Group 11(i.e., independent claims 37, 46 and 50 and dependent claims 19 and 38) contain limitations similar to those described above with respect to claim 18 and are patentable for the reasons described above.

III. The Claim of Group III is Allowable Over the Cited References

Claim 51 stands rejected under 35 USC §103(a) as unpatentable over Friedland (U.S. Patent No. 6,449,601) in view of Anderson (U.S. Patent No. 6,510,434).

As a preliminary matter, the claim of Group III should not stand or fall with the other Groups herein at least because the claim recites an element (i.e., a first database for storing at least one portal tagging standard having\_ portal tags and a second database for storing at least one registered content provider information) that is not found in any other Group.

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Claim 51 is generally directed to a "system for decentralized e-commerce" including "a first database for storing at least one portal tagging standard having portal tags" and "a second database for storing at least one registered content provider information, including key information and an address to content". The address includes "a network location address to content having provider tags identifying each of at least one content field within the content" and the key information includes "a cross-reference of portal tags corresponding to provider tags".

The system of claim 51 further includes "a central processing unit configured" to perform the following functions: "receive a user search request having at least one search term associated with at least one portal tag", "cross-reference each portal tag with at least one corresponding provider tag using the key information" and "search the content by comparing each search term with each matching content field", where a matching content field is "a content field tagged with a provider tag corresponding to the portal tag associated with the search term."

Appellants respectfully submit that the references relied upon by the Examiner, taken either alone or in combination (and taken as a whole), fail to teach or suggest several features of claim 51. For example, there is nothing in those references regarding a database that stores at least one portal tagging standard having portal tags (nor has the Examiner alleged any such teaching). The references also lack any disclosure in regard to a database storing key information that includes a cross-reference of portal tags corresponding to provider tags. Further, the references fail to disclose a CPU configured to cross-reference each portal tag with at least one corresponding provider tag. Claim

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51 is further believed patentable for the reasons discussed above in conjunction with the claims of Group 1.

In view of the above, claim 51 is patentable under 35 USC § 103 over Friedland and Anderson, and Appellants respectfully request that the Examiner's rejection be reversed and/or the claim allowed.

S. Examiner's response:

See items B., D., and O. above.

T. Appellant argues:

#### CONCLUSION

The rejections of claims 1-12, 18-19, 20-31, 37-38, 46-47, and 50-51 are improper at least because the Examiner has failed to cite references which teach or suggest each of the elements of the claims and further because the Examiner has improperly combined references (i.e., there is no adequate reasoning or support for making the proposed combinations). Therefore, Appellants respectfully request that the Examiner's rejections be reversed.

Examiner concludes that for the above reasons, the rejections should be sustained.

Respectfully submitted,

SRW

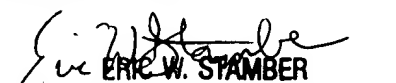
June 12, 2004



VINCENT MILLIN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600



HANI M. KAZIMI  
PRIMARY EXAMINER



ERIC W. STAMBER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600  
CONFERE